

RIVER ...

Continued from A-3

"You need to work with the agencies. The rules are there for a reason and they're put in place by smart people who know what they're doing."

Ironically, Ismaili's effort won't accomplish his desired goals, according to Dave Haight, a fisheries biologist with the Oregon Department of Fish and Wildlife. "Even with the amount of work done there, the river will just smooth it all out within a few years. That's all rounded river rock."

Rudenko agrees. "The Illinois is one of the more powerful and dynamic rivers in the area," Rudenko said. "All rivers move over time and some more than others. So that's why we defer to engineers who design projects that can actually be effective."

Haight added that "Ismaili has a legitimate problem but made a mistake by trying to address it himself without looking into the regulations and getting expert advice and permits. The proper fixes would involve putting in woody structures, natural logs and root wads to stabilize the bank and encourage material to deposit - and not erode - in that spot. And the key is to extend work far enough upstream to catch the upper end of the erosion area. Or, putting in rip-rap and weirs, but that's less desirable. We much prefer the former methods, for the health of the river."

Another irony, according to Sanford, is that Ismaili likely sped up the erosion process by logging a lot of trees along the river several years ago. He also noted that county riparian ordinances require people to leave vegetation along the river intact. "And that's important," he said, "not just because the tree roots stabilize river banks, but also, they provide shade for

fish."

Haight said that as the river moves rocky material downstream every winter, most damages caused by Ismaili's project are relatively short term: "In this case, there was certainly short term disturbance, some loss of wildlife, aquatic organisms, suffocated by the sediment."

However Beckord feels the damage scope is wider: "That particular river bank was full of wildflowers and there was beaver activity and now that's all wiped out. It'll take years to recover."

"Everyone has to go through a process of learning about river sensitivity and this incident points out the need for that education," said local biologist Bill Gray. "We actually have a relatively healthy fishery and aquatic ecosystems in the Illinois Valley. A lot of us value that. All those rocks, positioned just as they are, creates an amour that prevents finer sediments

from being picked up and spread through the water - and those fine sediments suffocate fish eggs and harm young fish. Having a vibrant fishery also help us maintain a healthy tourism economy and that helps support the commercial ocean fishery, which also provides jobs."

So what happens now? Rudenko said there's two separate enforcement issues: "We need to remediate for damages and determine what needs to be done to restore the river at that spot; and secondly, any future project to stabilize that bank must be appropriately designed with input from the agencies involved." Regarding fines to Ismaili, Rudenko added, "We follow a calculation written into the laws governing this type of violation. We don't have an agreement in place yet, though we're negotiating a 'Consent Agreement' with Ismaili that can expedite the restoration process. We may have that in the next several weeks."

You can reach Rudenko at 503-986-5200.

Navigating water rights, rules and regs can be complex

Annette McGee Rasch

IVN Senior Contributing Writer

Back in the day - when Europeans first settled Southwest Oregon and up until the 1970s - "people logged right up to the river's edge and mined and damned the rivers, basically doing whatever they wanted," said longtime Illinois Valley resident and land developer Mal Sanford.

"Then in the '70s the Oregon Department of Land Conservation and Development came into play with new zoning laws and rules about where people could build homes and where they could log and mine - and where they couldn't," Sanford said. Today, these set-backs and restrictions for waterways are enforced by the Oregon Department of State Lands (DSL).

Over the decades, as more people arrived in the west and competition for limited lands increased, the complexity of issues gave rise to many new regulations that were administered by increasing numbers of county, state and federal land-use or natural resource agencies, commissions and boards (often with over-lapping jurisdictions). The missions of these organizations: ostensibly to conserve waterways and forestlands; protect fish and wildlife; ensure orderly and efficient development; regulate

water use; coordinate with various government entities; and empower citizen involvement - can also give rise to controversy and disputed interpretations of the rules.

And, even with that entire regulatory infrastructure, "some damaging practices are still allowable in the state's waterways when landowners possess certain historic in-stream water rights," explained Sanford, who is also a former president of the Josephine County (JoCo) Homebuilders Association. "However for the most part the days are long gone when people can do anything they want with water and natural resources in the region. Lord knows we need to keep standing up to protect this fishery. This whole region, from the coast up to the spawning grounds around here, all that fish habitat was nearly destroyed by unregulated logging, mining and development many years ago."

Today, to discern individual water rights on any given piece of property, whether regarding a waterway or pertaining to rules and regulations governing private wells and irrigation allowances, it's best to contact the state watermaster assigned to your area. Kathy Smith, watermaster for JoCo, can be reached at 541-479-2401.

With the massive influx of marijuana growers flooding into the

Valley, water use has become a hot topic, with many residents concerned about water pirating. Also, with the strong river flows of last winter, the powerful Illinois River rearranged itself: in some locations, consuming chunks of peoples' land and edging closer to their developments.

"The Illinois Valley Soil and Water Conservation District and Watershed Council provide free, non-regulatory services and consultations to landowners," said conservation technician Tracey Brandt. "We have grant funding, so assistance may be available for projects to conserve, restore and enhance our natural environment." She said the organizations have been involved with a lot of bank stabilization projects and that funding may be available to landowners. "We have a big project right now at a vineyard, where the land owner was losing a lot of land to the migrating river. We're putting in a large wood and rock protection structure to redirect the water away from the bank and slow the velocity of water that flows through there."

Brandt said the public cannot "do any form of work in a riparian zone without a permit." That includes cutting trees or any vegetation removal. County permits are required, and if work is to occur below the ordinary high water line, then joint permits from both the DSL

and the United States Army Corp of Engineers may be required. "There's a lot of layers of regulations," she said.

"It's always preferential to help people ahead of time rather than having to go back and repair the damage," said JoCo's Community Development Director Julie Schmelzer. "If the damage has already occurred, then you usually have to involve the state agencies and then fines might be assessed."

People can call the county planner assigned to the Illinois Valley, Ranya Aboras, at 541-474-5427, with questions about any kind of development issues, including riparian issues.

And to make complaints about potential riparian violations - from heavy equipment in the water to potentially illegal water diversions - Schmelzer said people can call Denise Montijo, JoCo's Planning Code Enforcement Administrator, at 541-474-5425. "She can also direct people to the right agency, if needed," Schmelzer added.

Many waterways in this area possess "Essential Salmon Habitat" designations and that means that "anything you'd want to do in those waters will require a permit," said DSL resource coordinator for this region, Melody Rudenko. "There may be exemptions associated with old water rights, and also,

for transportation needs, like maintenance or reconstruction existing structures like culverts under roads. But it's best to check." She said beneficial habitat projects: doing things to benefit salmon and other aquatic organisms are also exempt.

"Timing is important and precautions are required, like sediment requirements," Rudenko said. "And there's prevention measures, like isolating heavy equipment from the water to prevent extreme turbidity and to protect fish. This all means it's best to coordinate with the agencies. You can call me at 503-986-5200 - and if I'm not the right person, I'll tell you who is."

Finally, Rudenko said the Oregon Department of Fish & Wildlife regulates projects that affect fish passage. "They're the experts when it comes to fish habitat. Really, though, your local Watershed Council and Soil & Water Conservation District is the best place to start. They're a great technical resource and have a lot of information for people."

Sanford added that sometimes there's a need for nonprofit, non-governmental organizations to help watchdog all the different agencies. He said that in this region, a good resource is the Klamath Siskiyou Wildlands Center. They can be reached at 541-488-5789.

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